



50 Rec'd PCT/PTO

25 JUL 2001

A33606-PCT-USA 071235.0111
PATENT

PCT #13

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: John Hiscott et al.
Serial No.: 09/647,965
Filed: October 6, 2000
For: HIGHLY ACTIVE FORMS OF INTERFERON
REGULATORY FACTOR PROTEINS

July 20, 2001

REQUEST FOR REFUND

Assistant Commissioner for Patents
Washington, D.C. 20231

ATTENTION: Refund Section, Accounting Division, Office of Finance

Sir:

Applicants respectfully request a refund of the five-month extension of time fee of \$945.00 that was paid to the PTO for the above-captioned application in connection with a Sequence Listing submitted to the PTO on May 21, 2001 in response to a Notification To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequences, Form PCT/DO/EO/920 mailed on April 9, 2001 ("April 9, 2001-Form 920"). Applicants believe that no extension of time fee is due because the April 9, 2001-Form 920 did not include any notification of when a response was due.

The April 9, 2001-Form 920 instructed the applicant to provide a computer readable form of the "Sequence Listing." The form stated "The period within which to correct the deficiency noted below an avoid abandonment is set forth in the accompanying Notification." However, the

April 9, 2001 notice did not include any accompanying Notification setting forth the time period within which to respond. (A copy of the April 9, 2001 Form 920 is attached as Exhibit A).

On May 21, 2001, within two months from the date of mailing of the April 9, 2001 Form 920, Applicants filed a response submitting a computer readable form of the sequence listing. In an abundance of caution, the applicants submitted a five-month extension of time and enclosing a check (Check No. 163972) in the amount of \$945.00, payable to the Commissioner of Patents and Trademarks. A copy of the response is attached as Exhibit B and a copy of the front of Check No. 163972 is attached as Exhibit C. Applicants also submitted a copy of an earlier received form, namely the Notification of Missing Requirements Under 35 U.S.C. § 371 In The United States Designated/Elected Office (DO/EO/US), that was mailed on November 20, 2000 ("November 20, 2000-Form 905"). However, the November 20, 2000-Form 905 did not indicate that a computer readable form of the computer sequence listing was missing and thus could not trigger the deadline for submitting a computer readable form of the sequence listing. In fact, the November 20, 2000-Form 905 expressly indicated that a Sequence Listing was submitted to the PTO. A copy of the November 20, 2000 Form 905 is attached as Exhibit D.

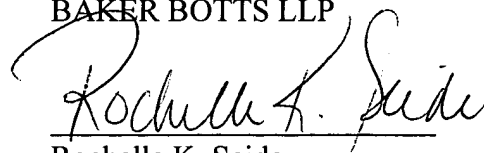
Applicants have repeatedly telephoned the Patent Office to request a copy of the Notification that should have accompanied the April 9, 2001 Notification Form PCT/DO/EO/920. In response to these calls, Applicants were sent via facsimile (1) a copy of the November 20, 2000-Form 905 and (2) copy of the November 20, 2000-Form 905 with the November 20, 2000 date crossed out and April 9, 2001 inserted. (A copy is attached as Exhibit E).

In view of the fact that no notification setting forth the time period within which to respond was provided with the April 9, 2001-Form 920, Applicants do not believe that any fee for an extension of time is due.

For the reasons stated above, Applicants hereby submit this Request for Refund, and respectfully request that the \$945.00 fee for a five-month extension of time be refunded by crediting Account No. 02-3477.

Respectfully submitted,

BAKER BOTTS LLP

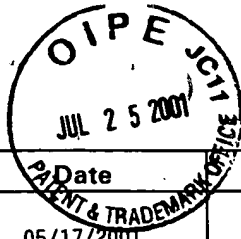
A handwritten signature in cursive script, reading "Rochelle K. Seide", written over a horizontal line.

Rochelle K. Seide

PTO Reg. No. 32,300

Attorney for Applicants
(212) 408-2500

Enclosures



BAKER BOTTS L.L.P.
ATTORNEYS AT LAW
30 Rockefeller Plaza
44th and 45th floors
New York, New York 10112-0228

INQUIRIES: (212) 705-5000
TAXPAYER I.D. #74-1195457

| Invoice No. | Date | Voucher | Gr ss Amount | Discount | Net Amount |
|-------------|------------|----------------------------|--------------|----------|------------|
| I0066409 | 05/17/2001 | GFB A33606PCTUSA 824963 | 945.00 | 0.00 | 945.00 |

| | | | | | |
|--------------|--------|------------|------------|-----------------------------|-------|
| Check No. | 163972 | Check Date | 05/17/2001 | Vendor No. | 11135 |
| V ndor Name | | | | COMMISSIONER OF PATENTS AND | |
| Total Amount | | | | 945.00 | |

Chase Bank, N.A.
New York, New York

BAKER BOTTS L.L.P.
ATTORNEYS AT LAW
New York Operating Account

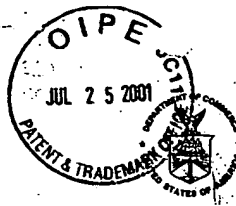
CHECK # 163972
DATE 05/17/2001

\$ *****945.00

PAY NINE HUNDRED FORTY-FIVE AND 00/100 Dollars

NOT NEGOTIABLE SIX MONTHS
FROM THE DATE OF ISSUE
TWO SIGNATURES REQUIRED OVER \$2500.00

TO THE ORDER OF
COMMISSIONER OF PATENTS AND
TRADEMARKS



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: ASSISTANT COMMISSIONER FOR PATENTS
Box PCT
Washington, D.C. 20231

| | | |
|----------------------|-----------------------|------------------|
| U.S. APPLICATION NO. | FIRST NAMED APPLICANT | ATTY. DOCKET NO. |
| 09/647965 | HISCOTT | J A33606-PCT U |

ROCHELLE K SEIDE
BAKER BOTTS
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112 0228

| | |
|-------------------------------|---------------|
| INTERNATIONAL APPLICATION NO. | |
| PCT/CA99/00314 | |
| LA. FILING DATE | PRIORITY DATE |
| 07 APR 99 | 07 APR 98 |
| DATE MAILED: 09 APR 2001 | |

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as

- ☐ a Designated Office (37 CFR 1.494),
- ☒ an Elected Office (37 CFR 1.495):
- ☒ U.S. Basic National Fee.
- ☒ Copy of the international application in:
 - ☐ a non-English language.
 - ☒ English.
- ☐ Translation of the international application into English.
- ☐ Oath or Declaration of inventors(s) for DO/EO/US.
- ☐ Copy of Article 19 amendments.
- ☐ Translation of Article 19 amendments into English.
- ☒ The International Preliminary Examination Report in English and its Annexes, if any.
- ☐ Translation of Annexes to the International Preliminary Examination Report into English.
- ☒ Preliminary amendment(s) filed 06 OCT. 2000 and
- ☐ Information Disclosure Statement(s) filed and
- ☐ Assignment document.
- ☐ Power of Attorney and/or Change of Address.
- ☐ Substitute specification filed
- ☐ Verified Statement Claiming Small Entity Status.
- ☒ Priority Document.
- ☒ Copy of the International Search Report ☒ and copies of the references cited therein.
- ☒ Other: SEQUENCE LISTING

2. The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- ☐ a. Translation of the application into English. Note a processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.
 - ☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.
- ☐ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).
- ☒ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
 - ☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.
- ☒ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

3. Additional claim fees of \$ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due. See attached PTO-875.

ALL OF THE ITEMS SET FORTH IN 2(a)-2(d) AND 3 ABOVE MUST BE SUBMITTED WITHIN ONE MONTH FROM THE DATE OF THIS NOTICE OR BY ☐ 21 OR ☒ 31 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

4. Translation of the Annexes **MUST** be submitted no later than the time period set above or the annexes will be cancelled. Note processing fee will be required if submitted later than 30 months from the priority date.

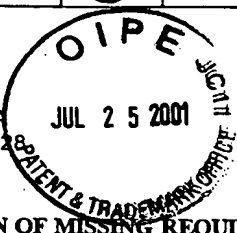
5. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

A copy of this notice MUST be returned with this response. For 515/2001

Enclosed:
☐ PCT/DO/EO/917
☐ PTO-875
☐ Notice of Defective Translation
FORM PCT/DO/EO/905 (December 1997)

CHRISTINE WASHINGTON
Telephone: 703-305-3752
11/5/01

| | | |
|---------------------------------------------------------------------------------------------------------------------------|-----------------------|------------------|
| U.S. APPLICATION NO. | FIRST NAMED APPLICANT | ATTY. DOCKET NO. |
| 09/647965 | HISCOTT | J A33606-PCT U |
| ROCHELLE K SEIDE BAKER BOTTS 30 ROCKEFELLER PLAZA NEW YORK, NY 10112 0228 | | |
| <div style="text-align: center;">  </div> | | |
| INTERNATIONAL APPLICATION NO. | | |
| PCT/CA99/00314 | | |
| I.A. FILING DATE | PRIORITY DATE | |
| 07 APR 99 | 07 APR 98 | |
| DATE MAILED: 20 NOV 2000 | | |

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as **BAKER BOTTS L.L.P.**

- ☐ a Designated Office (37 CFR 1.494),
- ☒ an Elected Office (37 CFR 1.495):
- ☒ U.S. Basic National Fee.
- ☒ Copy of the international application in:
 - ☐ a non-English language.
 - ☒ English.
- ☐ Translation of the international application into English.
- ☐ Oath or Declaration of inventor(s) for DO/EO/US.
- ☐ Copy of Article 19 amendments.
- ☐ Translation of Article 19 amendments into English.
- ☒ The International Preliminary Examination Report in English and its Annexes, if any.
- ☐ Translation of Annexes to the International Preliminary Examination Report into English.
- ☒ Preliminary amendment(s) filed 06 OCT. 2000 and _____
- ☐ Information Disclosure Statement(s) filed _____ and _____
- ☐ Assignment document.
- ☐ Power of Attorney and/or Change of Address.
- ☐ Substitute specification filed _____
- ☐ Verified Statement Claiming Small Entity Status.
- ☒ Priority Document.
- ☒ Copy of the International Search Report ☒ and copies of the references cited therein.
- ☒ Other: **SEQUENCE LISTING**

00 NOV 27 PM 12: 39

Docketed
For 12/12/2000 By
5/24/01
MLK

2. The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- ☐ a. Translation of the application into English. Note a processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.
 - ☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.
- ☐ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).
- ☒ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
 - ☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.
- ☒ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

3. Additional claim fees of \$ _____ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due. See attached PTO-875.

ALL OF THE ITEMS SET FORTH IN 2(a)-2(d) AND 3 ABOVE MUST BE SUBMITTED WITHIN ONE MONTH FROM THE DATE OF THIS NOTICE OR BY ☐ 21 OR ☒ 31 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

- 4. Translation of the Annexes **MUST** be submitted no later that the time period set above or the annexes will be cancelled. Note processing fee will be required if submitted later than 30 months from the priority date.
- 5. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

A copy of this notice MUST be returned with this response.